IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 22229 of 2007(U)

PETITIONER:

C.L.VINCENT,
CHAKRAMAKKIL BHAVAN, PALAUVAI,
THRISSUR DISTRICT.

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR
SMT.PREEJA. P.VIJAYAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY LABOUR & REHABILITATION DEPARTMENT(S),
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT EXECUTIVE OFFICER,
MOTOR TRANSPORT WORKERS WELFARE FUND,
THRISSUR DISTRICT.

BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 22229 OF 2007 - U

Dated this the 20th day of July, 2007

J U D G M E N T

The petitioner challenges Ext.P5 appellate order of the Government passed under the Kerala Motor Transport Workers Welfare Fund Act. The petitioner has been assessed to contributions under the Act which was challenged by him which ended in Ext.P5 order. The contention of the petitioner is that he is not the owner of the vehicle, but only an employee of the owner and therefore, he cannot be saddled with the liability. As per the documents produced by the petitioner himself, it is abundantly clear that the petitioner was conducting the business in partnership with his brother. In fact, in Ext.P4 reply to the second respondent, the petitioner has categorically admitted that the vehicle was in fact purchased as a source of income for the petitioner. From Ext.P1, I find that the demand was against the petitioner as well as his brother.

2. In the above circumstances, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner and accordingly, the writ petition is dismissed. However, the dismissal will not preclude the petitioner from recovering the amount from the owner of the vehicle if he is so entitled to recover the same.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007